

AMENDED IN SENATE MAY 26, 2005

AMENDED IN SENATE MAY 4, 2005

AMENDED IN SENATE APRIL 21, 2005

AMENDED IN SENATE MARCH 29, 2005

SENATE BILL

No. 929

Introduced by Senator Kehoe

February 22, 2005

An act to amend Sections 82002 ~~and 82039~~, 82039, and 86300 of the Government Code, and to amend Section 30325 of the Public Resources Code, relating to coastal resources.

LEGISLATIVE COUNSEL'S DIGEST

SB 929, as amended, Kehoe. California Coastal Commission: administrative actions.

(1) Existing provisions of the Political Reform Act of 1974 generally define "administrative action" to mean the proposal, drafting, development, consideration, amendment, enactment, or defeat by a state agency of any rule, regulation, or other action in any ratemaking proceeding or any quasi-legislative proceeding.

This bill would specify that an "administrative action" for purposes of proceedings before the California Coastal Commission; includes the proposal, drafting, development, consideration, amendment, enactment, or defeat of any rule, regulation, permit action, federal consistency review, appeal, local coastal program, port master plan, public works plan, long-range development plan, categorical or other exclusion from coastal development permit requirements, cease and desist order, restoration order, or any other quasi-judicial or quasi-legislative matter requiring commission action.

(2) The Political Reform Act of 1974 defines a “lobbyist” as an individual, among other things, whose principal duties as an employee are to communicate with, among others, an agency official for the purpose of influencing legislative or administrative action. The act also defines an “agency official” as any member, officer, employee, or consultant of any state agency who as part of his or her official responsibilities participates in any administrative action in other than a purely clerical, secretarial, or ministerial capacity.

This bill would, for purposes of a quasi-judicial matter before the California Coastal Commission, as specified, provide that an “agency official” only means a member of the commission.

The bill would also provide that “lobbyist” does not include an individual who communicates with a member of the California Coastal Commission for compensation to advocate for an outcome in relation to no more than one administrative action during a calendar year.

(3) Existing law relating to lobbyists contained in the Political Reform Act of 1974 excludes, among others, employees of the State of California acting within the scope of their employment from the definition of “lobbyist.”

This bill would also exclude from the definition of “lobbyist” for those purposes, an employee of a local government agency seeking, within the scope of his or her employment, to influence quasi-judicial decisions of the California Coastal Commission.

~~(3)~~

(4) The California Coastal Act of 1976 provides that nothing in the act prohibits any person or any interested person from testifying at a commission hearing, workshop, or other official proceeding, or from submitting written comments for the record on a matter before the commission, as provided.

This bill would require that any person who communicates with the members of the commission regarding an administrative action of the commission, as defined, who qualifies as a lobbyist, as defined, is required to comply with specified requirements of the Political Reform Act of 1974, as provided.

Existing law makes a violation of the act subject to administrative, civil, and criminal penalties.

This bill would impose a state-mandated local program by imposing criminal penalties on persons who violate the provisions of this bill.

~~(4)~~

(5) The Political Reform Act of 1974, an initiative measure, provides that the Legislature may amend the act to further the act's purposes with a ~~2/3~~^{2/3} vote of each house and compliance with specified procedural requirements.

This bill, which would declare that it furthers the purposes of the Political Reform Act of 1974, would therefore require a ~~2/3~~^{2/3} vote.

~~(5)~~

(6) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: ²/₃. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 82002 of the Government Code is
2 amended to read:

3 82002. (a) (1) "Administrative action" means the proposal,
4 drafting, development, consideration, amendment, enactment, or
5 defeat by any state agency of any rule, regulation, or other action
6 in any ratemaking proceeding or any quasi-legislative
7 proceeding, which shall include any proceeding governed by
8 Chapter 3.5 (commencing with Section 11340) of Part 1 of
9 Division 3 of Title 2.

10 (2) For purposes of proceedings before the California Coastal
11 Commission, "administrative action" includes the proposal,
12 drafting, development, consideration, amendment, enactment, or
13 defeat of any rule, regulation, permit action, federal consistency
14 review, appeal, local coastal program, port master plan, public
15 works plan, long-range development plan, categorical or other
16 exclusion from coastal development permit requirements, cease
17 and desist order, restoration order, or any other quasi-judicial; or
18 quasi-legislative matter requiring commission action.

19 (b) "Ratemaking proceeding" means, for the purposes of a
20 proceeding before the Public Utilities Commission, any
21 proceeding in which it is reasonably foreseeable that a rate will
22 be established, including, but not limited to, general rate cases,

1 performance-based ratemaking, and other ratesetting
2 mechanisms.

3 (c) “Quasi-legislative proceeding” means, for purposes of a
4 proceeding before the Public Utilities Commission, any
5 proceeding that involves consideration of the establishment of a
6 policy that will apply generally to a group or class of persons
7 including, but not limited to, rulemakings and investigations that
8 may establish rules affecting an entire industry.

9 SEC. 2. Section 82039 of the Government Code is amended
10 to read:

11 82039. (a) “Lobbyist” means any individual who receives
12 two thousand dollars (\$2,000) or more in economic consideration
13 in a calendar month, other than reimbursement for reasonable
14 travel expenses, or whose principal duties as an employee are, to
15 communicate directly or through his or her agents with any
16 elective state official, agency official, or legislative official for
17 the purpose of influencing legislative or administrative action.
18 An individual is not a lobbyist by reason of activities described in
19 Section 86300.

20 (b) For the purposes of subdivision (a), a proceeding before
21 the Public Utilities Commission constitutes “administrative
22 action” if it meets any of the definitions set forth in subdivision
23 (b) or (c) of Section 82002. However, a communication made for
24 the purpose of influencing this type of Public Utilities
25 Commission proceeding is not within subdivision (a) if the
26 communication is made at a public hearing, public workshop or
27 other public forum that is part of the proceeding, or if the
28 communication is included in the official record of the
29 proceeding.

30 (c) Notwithstanding Section 82004, for purposes of a
31 quasi-judicial matter before the California Coastal Commission,
32 as described in paragraph (2) of subdivision (a) of Section 82002,
33 “agency official,” as used in subdivision (a) of this section, shall
34 only mean a member of the California Coastal Commission.

35 (d) *Notwithstanding subdivision (a), “lobbyist” shall not*
36 *include an individual who communicates with a member of the*
37 *California Coastal Commission for compensation to advocate for*
38 *an outcome in relation to no more than one administrative action*
39 *during a calendar year.*

1 *SEC. 3. Section 86300 of the Government Code is amended to*
 2 *read:*

3 86300. The provisions of this chapter are not applicable to
 4 *any of the following:*

5 (a) ~~Any~~ *An* elected public official acting in his *or her* official
 6 capacity; or ~~any an~~ employee of the ~~State of California~~ *state*
 7 acting within the scope of his *or her* employment; ~~provided that,~~
 8 ~~an.~~ *However,* an employee of the ~~State of California~~ *state*, other
 9 than a legislative official, who attempts to influence legislative
 10 action and who would be required to register as a lobbyist, except
 11 for the provisions of this subdivision, shall not make gifts of
 12 more than ten dollars (\$10) in a calendar month to an elected
 13 state officer or legislative official.

14 (b) ~~Any~~ *A* newspaper or other periodical of general circulation,
 15 book publisher, radio or television station ~~(including, any,~~
 16 individual who owns, publishes, or is employed by any such
 17 newspaper or periodical, *or* radio or television station), which in
 18 the ordinary course of business publishes news items, editorials,
 19 or other comments, or ~~paid advertisement, which advertisements~~
 20 *that* directly or indirectly urge legislative or administrative
 21 action, if such newspaper, periodical, book publisher, radio or
 22 television station, or individual, engages in no further or other
 23 activities in connection with urging legislative or administrative
 24 action other than to appear before a committee of the Legislature
 25 or before a state agency in support of or in opposition to such
 26 action; ~~or.~~

27 (c) A person when representing a bona fide church or religious
 28 society solely for the purpose of protecting the public right to
 29 practice the doctrines of such church.

30 (d) *An employee of a local government agency seeking, within*
 31 *the scope of his or her employment, to influence quasi-judicial*
 32 *decisions of the California Coastal Commission.*

33 ~~SEC. 3.—~~

34 *SEC. 4.* Section 30325 of the Public Resources Code is
 35 amended to read:

36 30325. (a) Nothing in this article prohibits any person or any
 37 interested person from testifying at a commission hearing,
 38 workshop, or other official proceeding, or from submitting
 39 written comments for the record on a matter before the
 40 commission. Written comments shall be submitted by mail or

1 delivered to a commission office, or may be delivered to the
2 commission at the time and place of a scheduled hearing.

3 (b) Any person who communicates with the members of the
4 commission regarding an administrative action of the
5 commission, as defined in subdivision (a) of Section 82002 of the
6 Government Code, and who qualifies as a lobbyist, as defined in
7 subdivision (a) of Section 82039 of the Government Code, shall
8 comply with the requirements of Chapter 6 (commencing with
9 Section 86100) of Title 9 of the Government Code.

10 ~~SEC. 4.—~~

11 *SEC. 5.* No reimbursement is required by this act pursuant to
12 Section 6 of Article XIII B of the California Constitution because
13 the only costs that may be incurred by a local agency or school
14 district will be incurred because this act creates a new crime or
15 infraction, eliminates a crime or infraction, or changes the
16 penalty for a crime or infraction, within the meaning of Section
17 17556 of the Government Code, or changes the definition of a
18 crime within the meaning of Section 6 of Article XIII B of the
19 California Constitution.

20 ~~SEC. 5.—~~

21 *SEC. 6.* The Legislature finds and declares that the provisions
22 of this act further the purposes of the Political Reform Act of
23 1974 within the meaning of subdivision (a) of Section 81012 of
24 the Government Code.